UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/51/490
14 October 1996

ORIGINAL: ENGLISH

Fifty-first session
Agenda item 110 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in the Sudan

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the situation of human rights in the Sudan prepared by Mr. Gáspár Bíró, Special Rapporteur of the Commission on Human Rights, in accordance with Economic and Social Council decision 1996/278 of 23 July 1996.

96-27758 (E) 041196

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I. INTRODUCTION

1. The present report is the fourth interim report submitted by the Special Rapporteur to the General Assembly since 1993 (see A/48/601; A/49/539 and A/50/569). The history, the terms of the reference of the mandate and the legal framework are described in previous reports submitted to the Commission on Human Rights (see E/CN.4/1994/48; E/CN.4/1995/58 and E/CN.4/1996/62).

2. Following the adoption of resolution 1996/73 of 23 April 1996 by the Commission on Human Rights and the renewal of his mandate, the Special Rapporteur immediately requested permission from the Government of the Sudan to visit the country as soon as possible. After one postponement, the visit took place between 1 and 6 August 1996. During this visit the Special Rapporteur concentrated on consultations with the competent Government of the Sudan authorities regarding recent measures undertaken by the Government in the field of human rights, including investigation of reported violations, with special emphasis on steps aimed at improving the situation of human rights in the Sudan. At the same time, the Special Rapporteur received numerous reports, information and testimonies regarding grave violations of human rights, especially violations mentioned in resolution 1996/73 (see para. 3 below), which have taken place since the renewal of his mandate in April 1996.

3. In resolution 1996/73, the Commission on Human Rights, inter alia,

> Expressed its deep concern "at continued serious violations in the Sudan, including summary executions, extrajudicial killings, arbitrary arrests, detentions without due process, enforced or involuntary disappearances, violations of the rights of the women and children, slavery and slavery-like practices, forced displacement of persons and systematic torture, and denial of the freedom of expression, association and peaceful assembly, and emphasizes that it is essential to put an end to violations of human rights in the Sudan;"
>
> Again urged "the Government of the Sudan to release all remaining political detainees, to cease all acts of torture and cruel, inhuman or degrading punishment and close down all clandestine or unacknowledged detention centres, and to ensure that all accused persons are held in the custody of ordinary police or prison authorities where family members and lawyers can visit them and that such persons receive prompt, just and fair trials under internationally recognized standards;"
>
> Called upon "the Government of the Sudan to comply with applicable international human rights instruments and to bring its national legislation into accordance with the instruments to which the Sudan is a party and to ensure that all individuals in its territory and subject to its jurisdiction, including members of all religious and ethnic groups, enjoy fully the rights recognized in these instruments;"
>
> Urged "the Government of the Sudan to investigate reported policies or activities which support, condone, encourage or foster the sale of or trafficking in children, the separation of children from their families and

social backgrounds or which subject children to enforced internment, indoctrination or cruel, inhuman or degrading treatment or punishment, and to terminate immediately any such policies or activities and bring to trial any persons suspected of involvement in them;"

Also urged "the Government of the Sudan, following its letter to the Centre for Human Rights of 22 March 1996, to carry out its investigations without delay into cases of slavery, servitude, the slave trade, forced labour and similar institutions and practices, as reported by the Special Rapporteur and others, and to take all appropriate measures to put an immediate end to these practices;"

Called upon "all parties to the hostilities to respect fully the applicable provisions of international humanitarian law including article 3 common to the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977, to halt the use of weapons, including landmines, against the civilian population and to protect all civilians, especially women, members of minorities and children, from violations of human rights and humanitarian law, including forcible displacement, arbitrary detention, ill-treatment, torture and summary executions;"

Called once more upon "the Government of the Sudan to ensure a full and thorough investigation by the independent judicial inquiry commission of the killing of Sudanese employees of foreign relief organizations, to bring to justice those responsible for the killings and to provide just compensation to the families of the victims."

II. CONSULTATIONS

4. The most important elements revealed by the consultations held during the Special Rapporteur's visit to Khartoum from 1 to 6 August 1996 are described in the following paragraphs. The Special Rapporteur limited himself to the minimum of comments about the information he received from representatives of the Government of the Sudan and tried to reflect the communications in the most accurate way possible. However, he expounded upon those elements which he considered to be the most important for a better understanding and assessment of the situation. The Special Rapporteur will address reports and analyse information on grave violations of human rights in the Sudan received after the renewal of his mandate in the final report to the Commission on Human Rights due in 1997.

5. The descriptions generally follow the chronological order of the meetings that were held during his visit to Khartoum from 1 to 6 August 1996, with the exception of the reference made to the discussions with the Minister for Foreign Affairs, which, given its importance, is included with the conclusions.

A. Consultative Council for Human Rights

6. The Special Rapporteur had comprehensive consultations on 3 August 1996 with the Minister of Justice and Attorney-General and members of the Consultative Council for Human Rights, an organ created after the promulgation of Constitutional Decree 13 of 1995. The Special Rapporteur was informed that the Council is the highest authority in the field of human rights in the Sudan. It is presided over by the Minister of Justice. It was pointed out, however, that the Minister, as a member of the cabinet, is not bound by the decisions of the Council. In this regard, it was also explained to the Special Rapporteur that "as an advisory body to the Executive Branch of the Government, the Council is not a part of the Government, but it is not a purely voluntary organization either." All major organs and services of the Government of the Sudan have delegated members to the Council, including the Ministries of Social Planning and of the Interior, the security forces, the Relief Agency and Rehabilitation Commission and the Commission of Voluntary Work. The Committee for Human Rights of the National Assembly is represented by one of its members. Three recently created non-governmental organizations (NGOs), the Sudanese Lawyers Union, the Sudanese Jurists Union, and the Sudanese Human Rights Organization, are also represented. The Council created a series of special committees, which are delegated tasks by the Council. It is also possible to delegate the Council's authority to the local wali or governors.

7. The Council promised to keep the Special Rapporteur informed of its activities.

B. Special Investigation Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery

8. Prior to the meeting with the chairman and members of the Consultative Council for Human Rights, on 2 August, the Special Rapporteur held a meeting with the Chairman and members of the Special Investigation Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery. The Special Investigation Committee was created in May 1996 and is composed of eight members. The Chairman, a lawyer in Khartoum, and other members informed the Special Rapporteur about the mandate and the activities of the Special Investigation Committee. Although the duration of the Special Committee's mandate is not defined by a set date, its first activity report was due by 15 August 1996. It is to be mentioned at this stage that the Special Committee was created by the Consultative Council for Human Rights, an organ, as noted above, composed of representatives of different State organs and a number of NGOs, some of which have been recently founded, and chaired by the Minister of Justice and the Attorney-General. The Minister of Justice, based on the provisions of article 20 of the Criminal Procedure Act of 1991, has delegated to the Special Investigation Committee all the jurisdiction and powers of the public attorney with respect to any investigation within its mandate. The mandate is to investigate reported cases of enforced or involuntary disappearances and allegations and reports on slavery. In fulfilling its task, the Special Investigation Committee contacted the army, the security organs, the Ministry of Interior, the Governor of South Kordofan and the Higher Council for Peace, and requested information on the allegations falling within the scope of

its mandate. The Special Rapporteur was told that an appeal had been made through the media calling upon all persons who may possess information relating to the allegations under examination to contact the Special Investigation Committee without delay.

9. Regarding investigations carried out through 2 August 1996, the Chairman of the Special Investigation Committee instructed a team of its members, led by a judge from the Sudanese Jurists Union, to travel to the Nuba Mountains and investigate allegations on disappearances reported from the Toror area. These allegations had been contained in an urgent appeal transmitted to the Government of the Sudan in 1995 by the Chairman of the Working Group on Enforced or Involuntary Disappearances. The team was also to investigate reports on slavery in the Nuba Mountains area.

10. The urgent appeal sent by the Chairman of the Working Group on Enforced or Involuntary Disappearances referred to the alleged disappearance of 256 people from Toror after the army of the Government of the Sudan took control of the village in 1995. The investigations carried out by the team from the Special Investigation Committee led to the identification of 33 people coming from Toror in a location called Akab, which was under the control of the Government of the Sudan during the July 1996 investigations. Between December 1994 and February 1995, the population of Toror had gradually moved to Akab, although some of the villagers had reportedly gone further to Kadugli, and others even to Khartoum. After additional clarification from the Working Group, the Special Investigation Committee identified the above-mentioned 33 people from the list of 256 names transmitted to the Government; another 9 were reportedly to be found in Kadugli. It also gathered information about three other individuals reportedly killed by the Sudanese People's Liberation Army (SPLA) rebels in September 1996. It was also mentioned that members of the investigating team had been told that those who had left Toror and had been reported as disappeared had walked voluntarily to Akab and that they had been practically naked upon arrival because they had been looted by members of SPLA. The Chairman of the Special Investigation Committee told the Special Rapporteur that most of the names of the initial list could not be identified for lack of sufficient concrete details, such as the full name, profession, etc. There were also instances of duplication of names. The Special Rapporteur notes, however, that during the past four years there have been consistent reports that the army of the Government of the Sudan and the Popular Defence Forces (PDF) have been ordered to collect the civilians, mainly women, children and elderly, from villages in which they have gained control from SPLA and to take these civilians to areas controlled by the Government of the Sudan. This fact was confirmed by several testimonies received by the Special Rapporteur during his visit to the Nuba Mountains in 1993 (see A/48/601, paras. 83, 88 and 94). Further, the Special Rapporteur, as well as a large number of independent sources have consistently and constantly reported over the past years on violations and abuses committed against the civilian population in the area of the Nuba Mountains by all parties to the conflict, including extrajudicial killings, deportations, abductions, looting and enforced mass displacement.

11. The Special Rapporteur understands that no contacts have been established between the Government of the Sudan or representatives of local authorities and the SPLA local commanders in the Nuba Mountains area in this particular case.

The last reports indicating initiatives between the parties to the armed conflict were received by the Special Rapporteur in November 1992. After the removal of the Commissioner of Kadugli these talks were interrupted. Concerning reports of enforced or involuntary disappearances, however, which allegedly took place in the circumstances described in paragraph 10 above, it is necessary to establish and maintain contacts among all interested parties in order to clarify all aspects and to prevent such incidents. In the course of its work, the Special Investigation Committee made reference, inter alia, to the massive displacement of the population from Toror between December 1994 and February 1995 as a result of military operations in that area. Several questions still persist. In the opinion of the Special Rapporteur, the most important question at this stage is whether the orders given to the army of the Government of the Sudan and PDF to collect civilians after fighting has taken place against the rebels and the actual execution of these orders are in accordance with the relevant provisions of the Additional Protocol to the Geneva Conventions of 12 August 1949, relating to the protection of victims of non-international armed conflicts (Protocol II). Although the Government of the Sudan has not signed the Additional Protocol, the Commission on Human Rights, as well as the Special Rapporteur, have repeatedly recommended to the Government of the Sudan that it sign this international instrument. More importantly, the principles applicable in this particular case, set forth in articles 4 and 17, are generally considered to be customary international law. Unless it is clearly established that the flow of civilians from SPLA-controlled zones to areas controlled by the Government of the Sudan, and vice versa, does not take place in practice, or the conditions for such displacement set forth in article 17 of Protocol II have been met by the Government (i.e., the displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand and measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition), the Special Rapporteur considers that the investigation of alleged cases of disappearances, as well as other previously reported violations and abuses taking place in the context of the armed conflict in southern Sudan and the Nuba Mountains, cannot be considered by the international community as being conducted in a satisfactory manner.

12. With regard to reports on slavery, the Special Rapporteur was informed during the same meeting that the team of the Special Investigation Committee had also taken up this issue during its 10-day visit to the Nuba Mountains. All Nuba individuals and Nuba leaders contacted by the team "categorically denied slavery and slave trade in the Nuba Mountains" and had told the investigators that "they had heard these reports from the Western media". Local officials, including the Police Chief and the State Attorney-General of Kordofan, and PDF commanders also "categorically denied all allegations". They told the investigators that there is a "complete coexistence between groups" and that the family ties are strong. This is shown for example by the widespread nafir or collective participation to agricultural works in the fields, when seven or eight people get together and work one day on one individual's farm.

13. The Special Committee did inform the Special Rapporteur that many Nuba people are working in the households of military officers. The investigating team members "met both Nuba people and Arabs who provide the same duties". They

also informed the Special Rapporteur that this type of work "is on a voluntary basis" and that "tradition forbids them to beg or seek charity". The work, however, "is paid work, which allows for attending a school or the exercise of some other profession" at the same time. This is the situation in Kadugli and in surrounding areas. There was one report mentioned by local authorities to the investigating team about the alleged abduction of two children by members of the armed forces in April/May 1996. The cattle taken away at the same were returned to a village called Eri, a place under rebel control until 3 July 1996. The team was convinced that the "abduction was by the rebel forces". No further details were mentioned.

14. Regarding allegations of slavery and similar practices in Al-Dhein and Nyamlell, the members of the Special Investigation Committee told the Special Rapporteur that its team could not reach Nyamlell, which in July 1996 was under SPLA control. During the same period, Al-Dhein was inaccessible due to weather conditions. It is to be mentioned that since 1993 the Special Rapporteur has received consistent reports on slavery, slave trade and similar practices as being practised in Al-Dhein (together with a number of other locations, as indicated in E/CN.4/1994/48, para. 63 (c), and E/CN.4/1996/62). According to recent reports however, traders of the Arab Rizeighat tribe in Nyamlell are involved in a number of cases of retrieval and family reunification of Dinka women and children reportedly abducted by members of PDF during the past three years.

15. Members of the Special Investigation Committee who are lawyers told the Special Rapporteur that the house-labour taking place in the Nuba Mountains described in the previous paragraph is based on an agreement between the employer and the employee, sometimes called "house-keeper or house-maker". The employment conditions for such workers are regulated by the Domestic Servants Act of 1955.

16. The Chairman and the members of the Special Investigation Committee complained to the Special Rapporteur about the inadequate funding of their activities, the lack of appropriate means to carry out their activities and about the refusal by the authorities of the United States of America to issue a visa for one of its members to enable him to travel to the United States to participate in a meeting of the Working Group on Enforced or Involuntary Disappearances held in New York. They mentioned that the allegations in the reports at their disposal are of a "general nature", including the report of the Special Rapporteur, and therefore, they do not contain sufficient evidence on the cases described.

Recommendations by the Special Rapporteur made during the meeting with the Special Committee

17. During the meeting with the Special Investigation Committee, the Special Rapporteur made the following recommendations regarding the methodology of its work.

18. The mandate of the Special Investigation Committee should have a time-frame, that is, it must be made clear whether this is an ad hoc body whose

existence is limited, if it is to be renewed regularly or if the Special Committee is a standing body that shall carry out its mandate indefinitely.

19. The existence and the activities of the Special Investigation Committee should be publicized through the media, including radio and television broadcasts. The transparency of the work and the publicity of the findings should be ensured to the maximum extent possible.

20. It is necessary to encourage all those who possess information related to the pertinent issues to share them with the Special Investigation Committee. Also, all those who provide information or submit complaints regarding issues of interest to the Special Committee shall be assured that they will not suffer reprisals, negative consequences or any other disadvantages.

21. The Special Investigation Committee should consider the involvement, on a continuous basis, of representatives of local authorities and representatives of local communities, including local chiefs, in its activities. All the conditions for international participation in the form of technical cooperation and advisory assistance should also be guaranteed.

22. The Special Investigation Committee should look into the reported case of the children abducted from villages along the Babanusa-Wau railroad in June-July 1993 without delay. The Special Rapporteur emphasized that according to the information he had gathered, including eyewitness testimonies during his visit to Wau in September 1993, this case had been reported to the local authorities in Wau (a niece of the Vice-Governor of the state was rounded up and managed to escape). The local authorities, however, did not take any effective steps to end this situation and free the children. The incident is well known among the population of Wau (E/CN.4/1994/48, para. 98).

C. Higher Authority for Elections

23. The Special Rapporteur met the Chairman and members of the Higher Authority for Elections on 3 August 1996. The Higher Authority for Elections was created in 1994 with the main task of supervising elections. It is a permanent and independent body. It is considered as a "guarantor" for the independence of the election. The Chairman and the five members of the Authority are nominated by the President. Between elections the Higher Authority for Elections is the caretaker of the permanent general (national) register of voters. The first national register was completed during 1995-1996 based on questionnaires filled out by those eligible for the vote: 18 years old, Sudanese citizenship, mentally sane and resident for at least three months at his or her present domicile. At the local and federal levels corresponding registers are set up, comprising the local constituency. The Special Rapporteur was informed that during the March 1995 Presidential and National Assembly election, 8,164,000 people were included in the register. With regard to this election, it was also mentioned that the participation was greater than 75 per cent, with a higher turnout in rural areas as compared with towns in electoral districts drawn on geographical criteria. No political parties competed, all candidates ran in their individual capacity. One third of the created bodies, however, was nominated by electoral colleges. The voting took place between 5 and

20 March 1995. Six weeks were needed to count the votes. The total cost of the election was not estimated and the general report on the election was not yet completed as of 3 August. For the Presidency, 41 candidates ran, including four Sudanese citizens living abroad. Each candidate was allocated 15 minutes on radio and 20 minutes on television for campaigning. In answering a specific question of the Special Rapporteur, the participants at the meeting concluded that in the framework of the present political system formulas such as "government/opposition" or "(political) majority/minority" are "obsolete and simply do not work".

D. Khartoum State Committee for Human Rights Education

24. The Committee was created in 1996 by a decree of the Governor of Khartoum state with the task of disseminating human rights information among various categories of the population. The Special Rapporteur was informed that the Committee had held workshops regarding its methodology of work and its tasks and had produced some propaganda materials on human rights in the form of leaflets, which had been distributed mainly in schools and public places in Khartoum. The Special Rapporteur received a negative response to his question on whether the 1995 and 1996 resolutions by the General Assembly and the Commission on Human Rights on the situation of human rights in the Sudan had been discussed by the Committee. It was also emphasized that more financial resources and other material support are needed to develop more efficient educational activities in the field of human rights.

E. Deputy Speakers of the National Assembly, the Chairman and members of the Human Rights Committee and representatives of the Women's Caucus of the National Assembly

25. During the meeting with Abdelaziz Shiddo and Alison Magaya, Deputy Speakers of the National Assembly, and other members of the National Assembly, including the Chairman of the Human Rights Committee and representatives of the Women's Caucus, different aspects of the situation of human rights in the Sudan were discussed, with a special focus on reports on slavery and similar practices and institutions. The Special Rapporteur was assured by the participants that all the allegations made in this regard are completely baseless and spread by enemies of the Sudan. The Chairman of the National Assembly Human Rights Committee, Mr. Fathy Khalil, declared to a Khartoum newspaper after the meeting that "the facts of the situation disprove allegations by the enemies on slavery and terrorism in Sudan" (Akhbar al Yawn, 5 August 1996). The Special Rapporteur emphasized, however, that more concrete steps should be undertaken by the Government of the Sudan and other competent State organs in order to respond in an effective way and to improve the situation of human rights in the Sudan.

F. Chief Justice and Justices of the Supreme Court

26. On 5 August 1996 the Special Rapporteur met the Chief Justice and Justices from the Supreme Court of the Sudan who provided detailed information concerning the structure and the functioning of the judicial system, with particular

emphasis on criminal courts. The hierarchy of these courts is as follows: (a) The Supreme Court; (b) Regional Courts of Appeal (26 Circuits, 130 judges) and Specialized Courts appointed by the Chief Justice according to Judicial Authority Act of 1986 (6 courts); (c) General Courts (former province judge court - 200 judges); (d) Courts of First Class Magistrate (400 judges), Courts of Second Class Magistrate (300 judges), and Courts of Third Class Magistrate (300 judges); (e) Town and Rural Courts, appointed by the Chief Justice based upon the recommendation of the Lower Courts, whose jurisdiction and functions are stated in the warrant (860 judges). The Chief Justice emphasized the independence and impartiality of the Sudanese judiciary.

27. Section 5 of Constitutional Decree 13/1995, entitled "Powers of the President", provides, however, that: "... (h) He (the President) shall be the guardian of the Judiciary and the Council of Justice in accordance with the Constitution; (i) He shall be the guardian of the General Complaints Commission in accordance with the constitution and the law". Section 61 (1-3) provides: "The Judiciary is responsible before the President for the performance of its functions effectively and honestly for the prevalence of justice; its function is to adjudicate fairly in constitutional, administrative, family, civil and criminal disputes and to exercise its judgement in accordance with the law. The affairs of the Judiciary shall be organized by a High Judicial Council. A judge shall be guided by the concept of supremacy of the Constitution, law and general guidance of Sharia, and he shall adhere to this concept without inequity or fear or favour of any one save God. Judges are independent in the performance of their duties, they have full judicial power in exercising their functions and no one shall exercise directly or indirectly any influence on them." According to section 62: "The Chief Justice, and all other judges shall be appointed by the President in accordance with the law".

G. Khartoum State Ministry for Engineering Affairs

28. On 4 August 1996, the Special Rapporteur met with Mr. Sharafeldin Bannaga, Minister for Engineering Affairs for Khartoum state. The Minister informed the Special Rapporteur about the situation of displaced persons in Khartoum state. In six out of seven provinces in Khartoum state there are no more displaced or squatters. In Jebel Aulia, 3,444 families are still to be accommodated, while the status of 364,000 families has been legalized during the past few years. In fact, this process affected almost 2.5 million people, if one counts eight persons per family, which is virtually half of the population of Khartoum state. Conflicts were solved generally by giving priority to community considerations and the lots of land were allocated in accordance with strict observation of traditional zoning rules with two weeks of adaptation for each family.

29. The Minister underlined that the Ministry "is in control of the displaced and the squatter phenomena". It was emphasized, however, that taking into account the situation as it is, a recent regulation was enacted at the level of Khartoum state providing that the term "displaced" should no longer be used. The persons who are yet to be accommodated are considered as individuals whose integration into the community is under way.

H. Higher Council for Peace

30. The Chairman of the Higher Council for Peace, retired General El Amin Khalifa, former Speaker of the Transitional National Assembly, emphasized to the Special Rapporteur that the primary causes of the war in the south are political and not of an ethnic, religious or cultural nature. Therefore, the solution should be political. On 10 April 1996, the Government of the Sudan signed a peace charter with representatives of different rebel factions from Equatoria, Upper Nile, Bahr al Ghazal and the Nuba Mountains, and a general amnesty was promised to all those who cease to fight against the Government of the Sudan. The Special Rapporteur notes that he met, in Khartoum, Mr. Kuac Makul and Mr. Arok Thon Arok who had signed the charter in April 1996. They both emphasized that the basic needs of the population to security, food and shelter should be satisfied and as long as the war continues, violations will not come to an end. It should be mentioned that Mr. Makul and Mr. Arok said they were detained by the John Garang-led SPLA-mainstream for 10 and 6 years respectively for political reasons and had escaped recently from detention. The Special Rapporteur also met the Director General of the National Development Organization, an organ created in 1991 but which became effective only in 1992 with the purpose of enhancing development projects all over the country. The goals, as they were explained to the Special Rapporteur, are very broad, ranging from the training of teachers to activities in the banking sector and ending with efforts made towards the realization of plans assuring self-sufficiency for the population in the South. The organization is working also to attract more investments in the Sudanese economy.

I. Basic Principles of the New Political System

31. The Special Rapporteur was briefed in detail by Mr. Abdel Awad El Karim, an adviser to the President of the State about the new political system implemented in the Sudan. As a matter of principle, it was underlined that (a) the right to self-determination is at the core of the new system, and (b) the existence and functioning of political parties are not prerequisites of democracy. The elements of direct democracy introduced in the Sudan are in accordance with provisions of article 21 of the Universal Declaration of Human Rights. The further principles derived are: the separation of power between the legislative, the executive and the judiciary; accountability of the executive before the legislative; political equality for all citizens; and guarantees of the largest possible scale of political participation. As alternatives to the multiparty system, a broad framework of popular congresses and sectorial conferences is in place. The combination of direct elections and elements of corporatism led to a structure which, according to the political adviser to the President, can be called a system of semi-direct democracy, applied at every level of the political bodies both at the federal and local level. As mentioned before, two thirds of these bodies are elected directly in geographical districts, and one third are delegated by electoral colleges, which assure the participation of different segments of society in decision-making, such as youth, women, various social groups, trade unions and other civil organizations. It was emphasized that there is no bureaucratic leadership at the top level within the system, which means that "the political system created is not an organization, but all the powers (legislative, executive and judicial) together,

there is no budget allocated to this system (enacted bodies are financed by self-resources by the constituency), there is a face-to-face democracy, that is a free gathering of all citizens in different neighbourhoods, citizens who enjoy full equality of their rights". The assumption is that in this way a civil society "totally independent and self-reliant from the State" will be created.

J. Office of the Sudanese Commissioner for Refugees

32. The Special Rapporteur held a meeting on 5 August 1996 with the Commissioner for Refugees and representatives of his office. According to the Commissioner, Sudan has accommodated over 1 million refugees from five neighbouring States over the past 30 years. On the other hand, Sudanese refugees currently abroad encounter several difficulties according to the Commissioner, who said that "they live in abject conditions; in Uganda, Zaire and Kenya the conditions are even worse and beyond imagination". In this regard, recent massacres of refugees in camps in northern Uganda were mentioned and the Commissioner complained that no measures had been taken to prevent such cases. The rebels were held responsible for the massacres and also for the abduction of children from the refugee camps. The Special Rapporteur will address in more detail this issue in his final report to the Commission on Human Rights. The Commissioner also noted that requests that had been made by representatives of the Sudanese authorities to visit the Sudanese refugee camps had been turned down, and further, that a large number of Sudanese refugees had not been allowed to repatriate. The Commissioner stated that "there is a lack of equality in treatment of countries receiving refugees", emphasizing that in the case of the Sudan international assistance has been continuously declining. With regard to the interruption of the repatriation of Eritrean refugees which occurred at the end of 1994, the Special Rapporteur was informed on the last day of his visit by both Government of Sudan officials and the representative of the United Nations High Commissioner for Refugees in Khartoum that the Sudan was prepared to begin "technical" consultations regarding the resumption of the process.

K. Ministry of Social Planning

33. With regard to the situation of certain categories of children, especially unaccompanied minors, the Special Rapporteur gathered the following information concerning children living and working in the street and children affected by lasting psychological trauma caused by the war. According to the Minister of Social Planning, a National Council for Child Welfare is operating in close cooperation with the department of the Ministry dealing with the problems of women and the Commission on Humanitarian Aid. A family reunification process combined with a community-based rehabilitation of children has been implemented. New reception centres were opened and the Special Rapporteur was firmly assured that in the north only the camp of Adu Dhom (100 km north of Khartoum, see E/CN.4/1994/48, para. 92) is functioning as a camp for children. Two weeks prior to the visit of the Special Rapporteur the Ministry of Social Planning organized a meeting of several Government of the Sudan agencies and organizations working in this field. A report on the state of children is being prepared on the federal level. On 25 June 1996, the National Assembly adopted

in its first session a resolution regarding the situation of children in the Sudan, stating, inter alia: "(The members of National Assembly) Endeavour by all means to open the channels of external contact, and consolidate the international cooperation, aiming at securing the needs of the child and guaranteeing his rights."

34. Government of the Sudan representatives again raised the question of SPLA-conducted enforced conscriptions of minors, including the case of the unaccompanied minors sent to Cuba from Ethiopian refugee camps in the late 1980s. The Special Rapporteur notes that he continuously addressed the problem of children in southern Sudan, with special regard to the question of child soldiers in the armed conflict. In his final report to the Commission on Human Rights, the Special Rapporteur will again take up this issue. Regarding the case of the children sent to Cuba in the 1980s, the Government of Sudan has never provided the Special Rapporteur with specific information, except the general allegation that hundreds of boys were taken by SPLA to Cuba. The Special Rapporteur learned from non-governmental sources in Sudan that contacts have been established between the Cuban authorities and UNHCR since 1993 regarding the status of the approximately 300 boys who remained in Cuba, after a group from the initially reported 600 left for southern Sudan via Uganda during the same year. According to reliable sources, seven boys split from this latter group and went to Khartoum where they were not satisfied with the treatment given to them by the authorities of the Government of the Sudan. Three boys reportedly left Sudan, while one of the boys was reportedly arrested and tortured by the security in Kosti in mid-1995. His name was not included among those who had received an amnesty and had been released in August 1995. The Special Rapporteur has contacted UNHCR for up-to-date information on the situation.

L. General Federation of Sudanese Women

35. On 6 August 1996, the Special Rapporteur had comprehensive talks with representatives of the General Federation of Sudanese Women. On this occasion the high degree of participation of Sudanese women in the political, social, economic, cultural and scientific life was emphasized, together with the efforts made by the organization to eradicate illiteracy among women and children and to launch income-generating programmes for women. It was mentioned that there are 21 women members in the National Assembly, 2 women Justices on the Supreme Court and elected local committees composed entirely of women. In their endeavours towards the eradication of traditional and harmful practices, such as female genital mutilation and facial scars, the organization is working closely with the African Association for the Eradication of Harmful Practices. In December 1995, a medical centre for victims of such practices was created in Khartoum. Owing to serious financial problems, the centre has focused mainly on psychological treatment, for example organizing discussion groups. The Federation intends to open a similar institution in El Fasher.

36. The Special Rapporteur was also informed that following the abduction of women in Gurdud in 1989 by the rebels, it was decided at the federal level that women should receive military training in order to be able to defend themselves and to prevent further atrocities against them. It was stated also that in

Eastern Sudan 10,000 women were militarily trained, and in Bahr al Ghazal and Western Sudan women participated with the army in the liberation of more than 1,000 captured persons.

37. The following statement related to the status of women in the Sudan is included in a paper prepared in August 1995 for the Fourth World Conference on Women in Beijing, which was given to the Special Rapporteur during his meeting with the General Federation:

> "To reach an in-depth understanding of women's status in the Sudan we should consider the following points: (a) women are not considered homogeneous but there are differences in term of regions, socio-economic strata and tribal variations; (b) women's status has been formed as a result of economic and socio-cultural situations in certain times. Women's positions differ depending on differences in these factors."

M. Sudan Council of Voluntary Agencies

38. On 6 August 1996, the Special Rapporteur also met representatives of the Sudan Council of Voluntary Agencies, an umbrella organization for the 102 national NGOs working all over the country.

39. Among the statements made on this occasion were the following.

> "National NGOs work with due respect for the values and principles of the people conforming to the United Nations human rights Conventions. In this connection we cite here below part of the activities rendered by national NGOs: (a) caring for people affected by war and disasters; (b) following up of cases of children abducted by Rebel Factions and striving hard to release them and reunite them with their families. There is a good working relationship between the Sudan Red Crescent and the International Committee of the Red Cross (ICRC) in tracing, locating and reuniting children with their families, and there have been many cases of success over the last five years; (c) participation in investigation committees of abducted persons; (d) participation in information-gathering committees concerning allegations of slavery in the country; (e) catering and caring for orphans and homeless children. The numerous activities of national NGOs depend on funds which are insufficient to meet all demands. Thus, the participants urge Mr. Bíró, as Special Rapporteur, to help the national NGOs achieve the following goals:
>
> > (i) Funding of humanitarian projects; (ii) capacity-building; (iii) internal and external training programmes; (iv) creation of a conducive atmosphere for cooperation with international NGOs and United Nations agencies. One of the most fundamental rights of the third world countries is the need to be developed. The process of development is the key to achieving social justice, self-reliance and sustainable development. Therefore, we appeal to Mr. Bíró to include this right in his report, urging industrial and rich countries to contribute in different development areas and infrastructural building."

Several cases of the killing of national NGO staff members were mentioned to the Special Rapporteur, including the killing in Malakal of Muwafaq Foundation staff members. The Director of this NGO presented this complaint to the Special Rapporteur in a separate meeting, which took place with the Special Rapporteur on 5 August 1996 at the United Nations Development Programme (UNDP) office in Khartoum. A member of the Islamic African Relief Organization, the most important NGO working in the south, especially with vulnerable groups, has reportedly been detained for 10 years by the rebels in an unknown place. The Special Rapporteur agreed with the Sudan Council of Voluntary Agencies representatives that all NGO personnel active in the Sudan and working in accordance with internationally recognized principles of humanitarian law have the right to be protected and conduct their work without harassment. During this meeting the director of the Disaster Management and Disaster Studies Institute in Khartoum underlined that increased importance should be given at a local level to traditional Sudanese conflict resolution practices. The Special Rapporteur is looking forward to receiving more concrete details on the elaboration and a possible implementation of a programme based on this idea. The problem of land mines was also mentioned, an issue addressed by the Special Rapporteur in his previous reports. The information available, unfortunately, indicates an escalation in the use of land mines, especially anti-personnel mines in the conflict zones. This is a problem which gives rise to very serious concerns for the future.

N. Sudanese Jurists Union

40. The leadership of the Sudanese Jurists Union, a newly established organization, met with the Special Rapporteur on 6 August 1996. As of that date, the organization had 180 registered members. No specific activities have taken place since its creation except the adoption of the charter, which defines the Sudanese Jurists Union as a non-governmental organization with the following aims and objectives:

> "(a) Cooperation and friendship between the members of the Sudanese Jurists Union for the benefit of justice and the law without any fear or bias to anyone; (b) awareness among people regarding legal acknowledgement; (c) arranging for plans and programmes concerning the development of law construction of legislative and constitutional organs; (d) adapting objectives concerning legal rights and national duties of Sudanese citizens."

The special concerns of the Sudanese Jurists Union, according to the charter are:

> "(i) The Sudanese Jurists Union stands by issues and problems concerning human rights all over the world; (ii) the Sudanese Jurists Union defends the oppressed and the victims of unjust verdicts or actions; (iii) the Sudanese Jurists Union desires the attainment of recognition and acknowledgement from the international organizations at large, and the United Nations in particular; (iv) the Sudanese Jurists Union develops and advances the legal research and seminars regarding the above concerns."

III. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

41. After the renewal of his mandate in April 1996, the Special Rapporteur continued to receive reports and information on grave and widespread violations of human rights and fundamental freedoms by government agents, and abuses and atrocities against the life, liberty and security of individuals committed by members of different groups fighting against the Government in the areas controlled by them or the conflict zones. Indeed, the frequency and seriousness of these reports underline that since April 1996 the situation of human rights in the Sudan, in certain areas, has deteriorated at an unprecedented pace as compared to the previous years. Therefore, the Special Rapporteur wishes to emphasize that he considers valid and applicable to the present situation the provisions of resolution 1996/73 of 23 April 1996 of the Commission on Human Rights that endorsed the conclusions of his previous reports concerning the situation of human rights. These provisions should be borne in mind while reading the present interim report.

42. An analysis of all these reports will be included in the final report to the Commission on Human Rights. The present interim report concentrates on consultations held with Government of the Sudan officials during the visit to the Sudan in August 1996. Although it is not strictly within the scope of the mandate of the Special Rapporteur to deal with political questions, the following brief considerations are necessary to understand and appreciate the descriptions, conclusions and recommendations of the present report.

43. In assessing the general situation, based on information, consultations and documentation provided by officials of the Government of the Sudan at the highest level, the Special Rapporteur underlines what he considers as constants of the general situation. These constants are:

(a) It was made clear to the Special Rapporteur during all the meetings he held with representatives of the Government of the Sudan at the highest level that the political agenda of the Government will not change: the principles and the basic regulations laid down in constitutional decrees 1 to 13 as amended, will be strictly observed in the policy-making process and no change will be made to these principles and basic regulations. In this regard, section 1 of the seventh constitutional decree of 1993 must be quoted again:

> "Chapter I; Principles Directing the State Policy; Religion: Islam is the guiding religion for the overwhelming majority of the Sudanese people. It is self-generating in order to avert stagnation and constitutes a unifying force that transcends confessionalism. It is a binding code that directs the laws, regulations and policies of the State. However, revealed religions such as Christianity, or traditional religious beliefs may be freely adopted by anyone with no coercion in regard to beliefs and no restriction on religious observances. These principles are observed by the State and its laws." (E/CN.4/1994/48, para. 68)

The armed conflict is affecting most of the population and has dramatic implications regarding the overall situation of the country, including the

economy and the day-to-day life of the citizens, both in the urban and the rural areas, the north and the south. With every new day without peace, the sufferings of the citizens, regardless of their social status, ethnic origin or religious affiliation are deepening and the efforts required to rebuild the basic infrastructure facilities and to return life to normal will increase. One of the consequences of this situation is that the Sudan needs in the present and will need in the foreseeable future substantial external assistance.

(b) The following elements complement the above-mentioned conclusions. Those most exposed to violations of human rights, abuses and atrocities continue to be the children and the women. At the level of public discourse, some important questions related to the situation of human rights are now being addressed by government officials. Among the most important are reports on slavery and similar institutions and practices together with the situation of certain categories of children. The Ministry of External Relations released a statement in July 1996 on the issue of slavery and slavery-like practices. The Special Rapporteur did not receive any documentation related to this statement (including its official and complete version) during his last visit to Khartoum, although he raised this particular question in some of the meetings with the competent authorities. The statement, however, did appear in the press. Although it basically denies the existence of slavery in the Sudan, the statement indicated that the Ministry was "deeply concerned" about allegations of slavery in the Nuba Mountains and that Sudan was committed to eradicating slavery. "The Sudan strongly condemns," it was further cited, "such practices in all their forms and manifestations, wherever they exist, as being inhuman and degrading. It is willing at all times to exert its utmost effort to stop these practices." The statement announced also the formation of the Committee of Investigation in the Alleged Cases of Involuntary Disappearances and Slavery and underlined that the Government of Sudan is willing to help international groups who wanted to join the search. The Ministry said, according to the same sources, that it was ready to provide logistical support to national, regional and international organizations and diplomats accredited to the Sudan who would like to join the investigation. The Special Rapporteur expresses his full support regarding this invitation and he considers the realization in practice of this idea to be of the utmost importance concerning the issue of slavery and similar institutions and practices. The Special Rapporteur hopes that the openness shown and the offer made to international organizations by the Government of Sudan is valid for the future as well. At the same time, the Special Rapporteur should underline that he does not fully understand the reasons why the Government of Sudan did not disseminate this statement to a broader audience, which deserves the largest publicity both home and abroad.

44. The creation of the Special Committee, within the framework of the Consultative Council for Human Rights, and its investigation of allegations and the establishment of individual responsibility for crimes that are found to have been committed, is to be regarded as a positive step forward concerning the extremely serious question of slavery and similar institutions and practices. During his visit to Khartoum, from sources other than the Government of Sudan the Special Rapporteur received information about the fact that a civic group called the Dinka Committee, which is composed of Dinka chiefs and elderly from Bahr al Ghazal, is recognized by certain local authorities and permitted to develop some activities. The activities of the Dinka Committee reportedly are

concentrated on the retrieval of Dinka abducted from the Bahr al Ghazal, mainly women and children. If these reports are confirmed and the Dinka Committee is indeed allowed to function free of harassment and persecution, the Special Rapporteur considers this to be another positive development. However, the Special Rapporteur must express his amazement that he was not informed officially of this important development. The Special Rapporteur considers that cooperation in this area between the Government of Sudan and in particular the Consultative Council for Human Rights and the Special Committee and representatives of the civil society, including members of those groups which are involved in humanitarian activities, is to be welcomed and supported by the international community. At the same time, the Special Rapporteur also wishes to emphasize that he has not received any information so far regarding the activities of the special investigating committee of the Juba events of June-August 1992, although several resolutions of the General Assembly and the Commission on Human Rights, including resolution 1996/73, urged the Government of the Sudan to complete the investigation, to bring to justice those responsible for the killing of Sudanese employees of foreign relief organizations and to provide just compensation to the families of the victims.

45. Regarding the situation of children, the Special Rapporteur underlines the steps undertaken by the Government of Sudan in order to ensure the organizational framework of the work at the level of different state organs and agencies. The Special Rapporteur notes also the efforts made towards a larger degree of cooperation between the Government of the Sudan and the international organizations active in the Sudan and focusing on the situation of children and the rights of the child, in particular the UNICEF office in Khartoum. The Special Rapporteur welcomes the opening of a centre for traumatized children in Juba in August 1996, one of the most significant achievements in this area to have occurred in the past year.

46. With regard to the situation of human rights during the period between April and September 1996, reports on measures which can be qualified as positive in a given area are often accompanied or followed by reports on restrictions in other fields; reports on developments alternate with reports of cases of grave violation of human rights by agents of the Government of the Sudan.

47. For example, the religious dialogue initiated by the Government of the Sudan in 1994 was accompanied by the implementation of legislation affecting in a negative way the situation and the activities of different Christian churches and denominations in the Sudan. Their position apparently is not taken into account by the competent authorities of the Government of the Sudan who are maintaining a confusing situation on the legislative level. At the same time, the Special Rapporteur received numerous reports on restrictions on the activities of the traditional Sudanese Islamic orders and sects, including confiscations of assets and arbitrary arrest, torture, persecution or harassment of their prominent leaders. Similar violations took place against Christians and Christian churches and denominations. The Special Rapporteur will address in detail these problems in his final report in the context of violations of the freedom of conscience and religion. Another example is the continuing harassment of some of the released political detainees who are summoned daily to the security headquarters, where they are obliged to remain until late in the evening, without facing concrete charges or formal interrogation. This

restriction sometimes lasts for weeks. Of particular concern are the increasing number of reports of arrests, detention without trial and summary executions being carried out in eastern Sudan. The situation in certain universities in northern Sudan is also of concern, as well as reports on reprisals and atrocities committed against students by members of the police and the security forces. These and other reports on violations of human rights will be addressed in detail in the final report to the Commission on Human Rights.

48. During all consultations with officials of the Ministry of External Relations, and especially with the Minister of External Relations, the Special Rapporteur underlined the importance of a continuous, substantial and effective flow of information between the Government of the Sudan and the United Nations bodies and agencies dealing with human rights issues, including the Special Rapporteur of the Commission on Human Rights. The Special Rapporteur wishes to emphasize that the Minister himself and all high-level officials of the Ministry were in agreement with the Special Rapporteur regarding this particular aspect.

B. Recommendations

49. In the present interim report, the Special Rapporteur is submitting recommendations to the Government of Sudan and the international community in relation only to the questions discussed with government officials during his August 1996 visit to the Sudan. Recommendations regarding recent developments and the situation of human rights in the Sudan as a whole will be developed in the final report to the Commission on Human Rights.

50. Accordingly, the Special Rapporteur makes the following specific recommendations in addition to the provisions of previous resolutions referred to in paragraph 3 above.

51. To the Government of Sudan:

(a) To ensure that the Consultative Council for Human Rights addresses without delay all allegations on human rights violations brought to its knowledge and makes public its methodology of work, rules of procedure, the findings and results of the investigations made; to ensure that all those who provide information or submit complaints regarding violations of human rights will not suffer any reprisals, negative consequences or any other disadvantages;

(b) To define more precisely the terms of the reference of the mandate of the Special Committee, including its duration in time and composition;

(c) To ensure wide publicity of the activities and findings of the Special Committee, including the use of public radio and television broadcasts;

(d) To ensure full transparency by encouraging representatives of all interested civic groups to participate and to help the fact-finding activities of the Special Committee;

(e) To give free and unimpeded access to international human rights and humanitarian organizations and independent observers to all areas where enforced

or involuntary disappearances or cases of slavery, slave trade and similar institutions and practices, especially the sale of and trafficking in children and women have been reported;

(f) To consider the possibility of international participation in the process of addressing reported cases of enforced or involuntary disappearances in the Nuba Mountains area, and in contacting representatives of parties to the armed conflict other than the Government of the Sudan in areas under their control;

(g) To make public the full list of camps where children living or working in the street have been kept and the names of all the children living in these camps;

(h) To make all necessary efforts to enhance cooperation with all international humanitarian organizations working in the Sudan;

(i) To give free access to all national and international human rights organizations and independent observers to all areas in the Sudan.

52. To the General Assembly and the international community:

(a) To give priority to supporting the effective measures of a practical nature undertaken by the Government of Sudan to investigate all reported human rights violations and to make public the results of these investigations;

(b) To give priority to supporting the effective measures of a practical nature undertaken by the Government of the Sudan to improve the flow of information between the competent United Nations bodies and agencies, including the Special Rapporteur of the Commission on Human Rights, and to facilitate the independent verification of reports and information on human rights violations from all over the Sudan;

(c) To give priority, in accordance with resolution 1996/73 of the Commission on Human Rights, to the placement of human rights field officers to monitor the situation of human rights, in the locations and under the modalities suggested by the Special Rapporteur in his last report to the Commission, in order to facilitate improved flow and assessment and to help in the independent verification of reporting, with particular attention to violations in areas of armed conflict;

(d) To support all concrete steps and measures needed to improve the situation of the most vulnerable groups of the society, the women, the children and ethnic and religious minorities living in the conflict zones;

(e) To urge the Government of the Sudan to fully cooperate with all United Nations agencies, international humanitarian, human rights organizations and independent observers in order to improve the situation of human rights in the Sudan;

(f) To continue to maintain on its agenda the consideration of the situation of human rights in the Sudan.